

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Walter W. Thiemann, on behalf of himself and of all others similarly situated,	:	Case No. C-1-00-793
Plaintiff,	:	Judge Sandra S. Beckwith
vs.	:	Magistrate Judge Hogan
OHSL Financial Corporation, et al.	:	AFFIDAVIT OF MICHAEL G. BRAUTIGAM
Defendants.	:	

STATE OF OHIO	:
	: SS:
COUNTY OF HAMILTON	:

**MICHAEL G. BRAUTIGAM, being duly sworn, deposes and states as
follows:**

1. I am one of the counsel for the Plaintiffs in this action. I respectfully submit this affidavit in further support of Plaintiffs' Motion to Hold James E. Burke and KMK in contempt (Doc. No. 385) and in opposition to the motion for a protective order filed by the OHSL and Provident Defendants with respect to Dr. Peerless. (Doc. No. 392).
2. KMK has taken the position that I concluded the deposition. This is extremely misleading in the context of their opposition to the motion to hold KMK in contempt (Doc. No. 394) and their motion for a protective order (Doc. No. 392).
3. I concluded the deposition of Dr. Peerless with the understanding that Mr. Burke would seek a protective order. I saw no point in continuing

to ask Dr. Peerless questions when Mr. Burke stated that he would instruct Dr. Peerless not to answer additional questions. I concluded the deposition for this reason and this reason only. Indeed, it is silly to believe that I completed the deposition of this former PFGI director in approximately 80 minutes when I have been arguing (and continue to argue on a case by case basis), that the presumptive seven hour limit should not be applied to a case of this complexity.

4. I believe that it is obvious from the context of the deposition that the deposition was not over, but temporarily suspended so that Mr. Burke could seek a protective order. I felt that it would be a waste of everyone's time to continue what had become a meaningless ritual of me asking Dr. Peerless relevant questions and Mr. Burke instructing Dr. Peerless not to answer.
5. Regardless of who technically ended the deposition, Plaintiffs have additional questions for former PFGI Director Dr. Peerless and hope to resume the deposition once the Court rules on the pending motions.
6. Finally, I was present when the parties sought guidance from Judge Sandra Beckwith on conduct of depositions. I believe that Judge Beckwith's guidance constitutes an Order of the Court, and I have conducted myself accordingly. Indeed, I was and remain quite surprised that KMK has now taken the position that Judge Beckwith's guidance is mere dicta and not an Order of this Court.

FURTHER AFFIANT SAYETH NAUGHT



Michael G. Brautigam

Sworn to before me and subscribed in my presence this 15 day of October 2004.


STEPHANIE A. HITE

NOTARY PUBLIC



STEPHANIE A. HITE
Notary Public, State of Ohio
My Commission Expires
February 16, 2009